

## **REMARKS**

Prior to entry of this Amendment, Claims 1-4, 7-8, 10, 26, and 28-29 were pending and under consideration. Applicants note with appreciation that Claims 3, 4, 16, 17, 26 and 29 are indicated as being allowed, and that Claims 2, 8, 14, 25 and 28 would be allowable if re-written in independent form. With this Amendment, Claims 1, 2, 5-9, 12, 13, 15, 18-25, 27 and 28 are being cancelled, without prejudice against their reintroduction into this or one or more timely-filed related applications. Claims 4, 10, 26 and 29 are being amended, and Claims 30-35 are being newly added. Thus, after entry of this Amendment, Claims 3, 4, 10, 11, 14, 16, 17, 26 and 29-35 are pending and under consideration. The various amendments, objections and rejections are discussed in more detail, below.

### **The Amendments of the Specification**

The specification has been amended to update the status of various patent applications as requested by the Patent Office. The amendments do not present new matter.

### **The Amendments of the Claims**

Claims 3, 4, 16, 17, 26 and 29 were indicated as being allowed. Claims 4 and 26 have been amended to clarify that the phrase "each targeting polynucleotide" refers to the second pair of targeting polynucleotides. Claim 29 has been amended to clarify that the phrase "recombination intermediate" refers to the first recombination intermediate or the second recombination intermediate.

Claims 2, 8, 25 and 28 have been cancelled and re-written as new independent claims 30, 31, 32 and 33, respectively.

Claim 14 was also indicated as being allowable if re-written in independent form. Claim 14 depends from Claim 10, which prior to the present amendment was multiply dependent from claims 1, 2, 3, 4, 7, 8, 25, 26 and 28. Since Claims 2, 8, 25, and 28 have been cancelled in favor of new independent Claims 30-33, respectively, Claim 10 has been amended to depend from Claims 3, 4, 26, 30, 31, 32 and 33. The parts of Claim 14 that ultimately depended from Claims 1 and 7 have been written in independent form as new Claims 34 and 35, respectively

Support for the amendments of Claims 4, 11, 26 and 29, and of new Claims 30-35 derives from the claims as originally filed or as previously presented. Accordingly, the amendments do not present new matter and entry is proper.

#### **Objections to the Specification**

The specification was objected to for containing numerous U.S. Patent Application numbers that required an update in status. These numbers have been updated by present amendment, rendering the objection moot.

#### **Objection to Claims**

Claim 27 was objected to because it depended from a claim that had been cancelled. This objection is moot owing to the cancellation of this claim.

#### **Rejection of Claim under 35 U.S.C. §112**

Claim 23 stands rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failure to include a period at the end of the claim. The rejection is moot owing to the cancellation of this claim.

#### **Rejection of Claims 1, 7, 10-13, 15 and 18-24 Under 35 U.S.C. § 103(a)**

Claims 1, 7, 10-13, 15 and 18-24 stand rejected under 35 U.S.C. § 103(a) as being allegedly unpatentably obvious over U.S. Patent No. 5,948,653 to Pati *et al.* (henceforth, the '653 patent) in view of U.S. Patent No. 6,326,204 to delCardayre *et al.* (delCardayre *et al.*). The rejection is moot as applied to claims 1, 7, 12-13, 15 and 18-24 owing to their cancellation and traversed as applied to Claims 10 and 11. As amended, Claim 10 depends from claims reciting subject matter that the Patent Office indicated as allowable. Accordingly, Claim 10 as amended is allowable. Claim 11 depends from Claims 11, and is likewise allowable. Withdrawal of the rejection is therefore requested.

**Non-Statutory Double Patenting**

Claims 1, 10 and 15 stand rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over Claims 1, 2 and 9 of U.S. Patent No. 6,074,853. Applicants do not understand the rejection and believe that it is improper. Nonetheless, the rejection is rendered moot owing to the cancellation of Claims 1 and 15, and the fact that Claim 10, as amended, depends from claims reciting subject matter that the Patent Office indicated was allowable. Withdrawal of the rejection of Claim 10 is therefore requested.

**Conclusion**

All pending Claims, as amended, recite allowable subject matter and are in condition for allowance. An early notification of the same is kindly solicited.

The Commissioner is authorized to charge the fees as shown on the accompanying Fee Calculation Sheet to Deposit Account No. 50-2319 (Our Order No: A-66914-2/AMP/JFB). The Commissioner is hereby authorized to charge any additional fees which may be required, including extension fees, or credit any overpayment to this Deposit Account.

Respectfully submitted,

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